

AMENDED IN SENATE SEPTEMBER 4, 2003

AMENDED IN SENATE JULY 3, 2003

AMENDED IN SENATE JUNE 26, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1666**

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**Introduced by Assembly Member Cogdill**  
**(Coauthors: Assembly Members Chavez and Jerome Horton)**

February 21, 2003

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An act to ~~amend~~ *amend, repeal, and add* Sections 30142, 30168, 30181, and 30182 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1666, as amended, Cogdill. Cigarettes and tobacco products.

The Cigarette and Tobacco Products Tax Law requires distributors and wholesalers of cigarette and tobacco products to be licensed by the State Board of Equalization. The Cigarette and Tobacco Products Tax Law also requires a tax imposed by that law with respect to distributions of cigarettes to be paid by distributors through the use of stamps or meter register settings, and requires that these stamps or meter register settings be affixed to each package of cigarettes sold.

Existing law requires all distributors of cigarette and tobacco products that are required to be licensed by the State Board of Equalization to furnish a \$1,000 security deposit. Existing law requires a distributor that defers payments for stamps or meter register settings

to furnish a security deposit of at least 70% of, but not more than twice the amount of, stamps and meter register settings for which payment is deferred.

This bill would, *until January 1, 2007*, reduce the amount of the security deposit required to be provided by a distributor that defers payments for stamps or meter register settings and elects to make those payments on a twice-monthly basis, as authorized by this bill, to an amount that is at least 50% of, but not more than twice the amount of, stamps and meter register settings for which payment is deferred.

Existing law requires distributors that defer payments for stamps and meter register settings to remit the payments on or before the 25th day of the month following the month in which the payments were deferred.

This bill would, *until January 1, 2007*, require distributors that defer payments for stamps and meter register settings to elect to remit those payments either on a monthly or on a twice-monthly basis.

Existing law requires distributors of cigarettes and tobacco products to file returns for, and remit the taxes collected on, the distributions of cigarettes and tobacco products on or before the 25th day of the month following the month during which the cigarettes or tobacco products were distributed.

This bill would, *until January 1, 2007*, require distributors of cigarettes and tobacco products to elect to file those returns and remit those taxes, as specified, either on a monthly basis or on a twice-monthly basis.

*This bill would require the Legislative Analyst, on or before January 1, 2006, to prepare a report of the economic impact of this act.*

This bill would declare that it is to take effect immediately as an urgency statute, *but its operative date would depend on its effective date.*

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 30142 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 30142. (a) The board shall fix the amount of the security
- 4 required of any distributor and may increase or reduce the amount
- 5 at any time. A minimum security in the amount of one thousand



dollars (\$1,000) shall be furnished by every distributor *that is* required to be licensed.

(b) If a distributor desires to defer payments for stamps or meter register settings, as provided in Article 2 (commencing with Section 30166) of Chapter 3.5, the board shall require a security as follows:

(1) If a distributor elects, under Section 30168, to make payments on a monthly basis, the board shall require a security equal to not less than 70 percent of the amount and no more than twice the amount, as fixed by the board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred.

(2) If a distributor elects, under Section 30168, to make payments on a twice-monthly basis, the board shall require a security equal to not less than 50 percent of the amount and no more than twice the amount, as fixed by the board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred.

(c) *This section shall remain in effect until January 1, 2007, and as of that date is repealed.*

SEC. 2. *Section 30142 is added to the Revenue and Taxation Code, to read:*

30142. (a) *The board shall fix the amount of the security required of any distributor and may increase or reduce the amount at any time. A minimum security in the amount of one thousand dollars (\$1,000) shall be furnished by every distributor that is required to be licensed.*

(b) *If a distributor desires to defer payments for stamps or meter register settings, as provided in Article 2 (commencing with Section 30166) of Chapter 3.5, the board shall require a security equal to not less than 70 percent of the amount and no more than twice the amount, as fixed by the board, of the distributor's purchases of stamps and meter register settings for which payment may be deferred.*

(c) *This section shall become operative on January 1, 2007.*

SEC. 3. Section 30168 of the Revenue and Taxation Code is amended to read:

30168. (a) Amounts owing for stamps and meter register settings purchased on the deferred-payment basis in any calendar month shall be due and payable on a monthly basis, in the manner

1 elected pursuant to subdivision (b), during the month following  
2 the calendar month in which the stamps and meter register settings  
3 were purchased. Payment shall be made by a remittance payable  
4 to the board.

5 (b) A distributor shall elect to make the payment required by  
6 subdivision (a) on either a monthly or a twice-monthly basis. An  
7 election made pursuant to this subdivision shall remain in effect  
8 for at least one year from the date the election is made. If the board  
9 finds that good cause exists for a distributor's inability to maintain  
10 the election for the full year, the board shall authorize the  
11 distributor to make a new election, as otherwise authorized by this  
12 subdivision, prior to the expiration of the one-year period  
13 following the prior election.

14 (1) If a distributor elects to make the payment required by  
15 subdivision (a) on a monthly basis, the distributor shall remit the  
16 payment on or before the 25th day of the month following the  
17 month in which the stamps and meter register settings were  
18 purchased.

19 (2) If a distributor elects to make the payment required by  
20 subdivision (a) on a twice-monthly basis, the distributor shall  
21 make two remittances during the month following the month in  
22 which the stamps and meter register settings were purchased. The  
23 first monthly remittance shall be made on or before the 5th day of  
24 the month ~~for and shall be equal to either one-half of the total~~  
25 ~~amount of those purchases of stamps and meter register settings~~  
26 ~~that were made during the preceding month or the total amount of~~  
27 ~~those purchases of stamps and meter register settings that were~~  
28 ~~made between the first day and the 15th day of the preceding~~  
29 ~~month—month, whichever is greater.~~ The second monthly  
30 remittance shall be made on or before the 25th day of the month  
31 for *the remainder of* those purchases of stamps and meter register  
32 settings that were made ~~between the 16th day and last day of~~ in the  
33 preceding month.

34 ~~SEC. 3.—~~

35 (c) *This section shall remain in effect until January 1, 2007, and*  
36 *as of that date is repealed.*

37 SEC. 4. *Section 30168 is added to the Revenue and Taxation*  
38 *Code, to read:*

39 30168. (a) *Amounts owing for stamps and meter register*  
40 *settings purchased on the deferred-payment basis in any calendar*

1 *month shall be due and payable on or before the 25th day of the*  
2 *following calendar month. Payment shall be made by a remittance*  
3 *payable to the board.*

4 *(b) This section shall become operative on January 1, 2007.*

5 SEC. 5. Section 30181 of the Revenue and Taxation Code is  
6 amended to read:

7 30181. (a) When any tax imposed upon cigarettes under  
8 Article 1 (commencing with Section 30101), Article 2  
9 (commencing with Section 30121), and Article 3 (commencing  
10 with Section 30131) of Chapter 2 is not paid through the use of  
11 stamps or meter impressions, the tax shall be due and payable  
12 monthly on or before the 25th day of the month following the  
13 calendar month in which a distribution of cigarettes occurs, or in  
14 the case of a sale of cigarettes on the facilities of a common carrier  
15 for which the tax is imposed pursuant to Section 30104, the tax  
16 shall be due and payable monthly on or before the 25th day of the  
17 month following the calendar month in which a sale of cigarettes  
18 on the facilities of the carrier occurs.

19 (b) Each distributor of tobacco products shall file a return in the  
20 form as prescribed by the board, that may include, but not be  
21 limited to, electronic media, ~~respecting his or her~~ *with respect to*  
22 distributions of tobacco products and their wholesale cost during  
23 the preceding month, and any other information as the board may  
24 require to carry out this part. The return shall be filed with the  
25 board, in the manner elected by the distributor pursuant to  
26 subdivision (c), together with a remittance payable to the board,  
27 of the amount of tax, if any, due under Article 2 (commencing with  
28 Section 30121) or Article 3 (commencing with Section 30131) of  
29 Chapter 2 for that period. To facilitate the administration of this  
30 part, the board may require the filing of the returns for longer than  
31 monthly periods. Returns shall be authenticated in a form or  
32 pursuant to methods as may be prescribed by the board.

33 (c) A distributor shall elect to file the return and to make the  
34 payment required by subdivision (b) on either a monthly or a  
35 twice-monthly basis. An election made pursuant to this  
36 subdivision shall remain in effect for at least one year from the date  
37 the election is made. If the board finds that good cause exists for  
38 a distributor's inability to maintain the election for the full year,  
39 the board shall authorize the distributor to make a new election, as

1 otherwise authorized by this subdivision, prior to the expiration of  
2 the one-year period following the prior election.

3 (1) If a distributor elects a monthly basis, the distributor shall  
4 file a return and remit the payment on or before the 25th day of the  
5 month following the month in which the tobacco products were  
6 distributed.

7 (2) If a distributor elects a twice-monthly basis, the distributor  
8 shall file two returns and make two remittances during the month  
9 following the month in which the tobacco products were  
10 distributed. The first monthly return shall be filed and the first  
11 remittance shall be made on or before the 5th day of the month for  
12 those distributions that occurred between the first day and the 15th  
13 day of the preceding month. The second monthly return shall be  
14 filed and the second remittance made on or before the 25th day of  
15 the month for those distributions that occurred between the 16th  
16 day and last day of the preceding month.

17 ~~SEC. 4.—~~

18 *(d) This section shall remain in effect until January 1, 2007,*  
19 *and as of that date is repealed.*

20 *SEC. 6. Section 30181 is added to the Revenue and Taxation*  
21 *Code, to read:*

22 *30181. (a) When any tax imposed upon cigarettes under*  
23 *Article 1 (commencing with Section 30101), Article 2*  
24 *(commencing with Section 30121), and Article 3 (commencing*  
25 *with Section 30131) of Chapter 2 is not paid through the use of*  
26 *stamps or meter impressions, the tax shall be due and payable*  
27 *monthly on or before the 25th day of the month following the*  
28 *calendar month in which a distribution of cigarettes occurs, or in*  
29 *the case of a sale of cigarettes on the facilities of a common carrier*  
30 *for which the tax is imposed pursuant to Section 30104, the tax*  
31 *shall be due and payable monthly on or before the 25th day of the*  
32 *month following the calendar month in which a sale of cigarettes*  
33 *on the facilities of the carrier occurs.*

34 *(b) Each distributor of tobacco products shall file a return in*  
35 *the form, as prescribed by the board, which may include, but not*  
36 *be limited to, electronic media respecting the distributions of*  
37 *tobacco products and their wholesale cost during the preceding*  
38 *month, and any other information as the board may require to*  
39 *carry out this part. The return shall be filed with the board on or*  
40 *before the 25th day of the calendar month following the close of*

1 *the monthly period for which it relates, together with a remittance*  
2 *payable to the board, of the amount of tax, if any, due under Article*  
3 *2 (commencing with Section 30121) or Article 3 (commencing with*  
4 *Section 30131) of Chapter 2 for that period.*

5 *(c) To facilitate the administration of this part, the board may*  
6 *require the filing of the returns for longer than monthly periods.*

7 *(d) Returns shall be authenticated in a form or pursuant to*  
8 *methods as may be prescribed by the board.*

9 *(e) This section shall become operative on January 1, 2007.*

10 *SEC. 7. Section 30182 of the Revenue and Taxation Code is*  
11 *amended to read:*

12 30182. (a) Except as provided in subdivision (b), every  
13 distributor shall file, on or before the 25th day of each month, a  
14 report in the form as prescribed by the board, that may include, but  
15 not be limited to, electronic media ~~respecting his or her~~ *with*  
16 *respect to* distributions of cigarettes and purchases of stamps and  
17 meter register units during the preceding month and any other  
18 information as the board may require to carry out this part.

19 (b) Every distributor that elects, pursuant to Section 30168, to  
20 make deferred payments on a twice-monthly basis shall file ~~two~~  
21 ~~reports~~ *a report* in the form as prescribed by the board, that may  
22 include, but not be limited to, electronic media, ~~respecting his or~~  
23 ~~her~~ *with respect to* distributions of cigarettes and purchases of  
24 stamps and meter register units during the month following the  
25 month in which the distribution occurred and the stamps and meter  
26 register settings were purchased, and any other information as the  
27 board may require to carry out this part. The ~~first~~ monthly report  
28 shall be filed on or before the 5th day of the month ~~for~~ *with respect*  
29 *to* those distributions of cigarettes and purchases of stamps and  
30 meter register settings that ~~were made between the first day and the~~  
31 ~~15th day of the preceding month. The second monthly report shall~~  
32 ~~be filed on or before the 25th day of the month for those~~  
33 ~~distributions of cigarettes and purchases of stamps and meter~~  
34 ~~register settings that were made between the 16th day and last day~~  
35 ~~of the preceding month. were made during the preceding month.~~

36 (c) Reports shall be authenticated in a form, or pursuant to,  
37 methods as may be prescribed by the board.

38 ~~SEC. 5.—~~

39 *(d) This section shall remain in effect until January 1, 2007,*  
40 *and as of that date is repealed.*



1 SEC. 8. Section 30182 is added to the Revenue and Taxation  
2 Code, to read:

3 30182. (a) Every distributor shall, on or before the 25th day  
4 of each month, file a report in the form as prescribed by the board,  
5 which may include, but not be limited to, electronic media with  
6 respect to distributions of cigarettes and purchases of stamps and  
7 meter register units during the preceding month and any other  
8 information as the board may require to carry out this part.

9 (b) Every distributor shall, on or before the 25th day of each  
10 month, file a return, in the form as prescribed by the board, which  
11 may include, but not be limited to, electronic media, with respect  
12 to distributions of tobacco products and their wholesale cost  
13 during the preceding month, and any other information as the  
14 board may require to carry out this part.

15 (c) The reports and returns required by this section shall be  
16 authenticated in a form or pursuant to methods as may be  
17 prescribed by the board.

18 (d) This section shall become operative on January 1, 2007.

19 SEC. 9. The Legislative Analyst, with assistance of, and based  
20 on information provided by, the State Board of Equalization, shall,  
21 on or before January 1, 2006, prepare a report to the Legislature  
22 of the economic impact of this act. The report shall include an  
23 evaluation of the State Board of Equalization's ability to collect  
24 cigarette tax revenues, additional revenues, if any, generated by  
25 the twice-monthly payment program, and the ability of distributors  
26 to access security bonds.

27 SEC. 10. This act is an urgency statute necessary for the  
28 immediate preservation of the public peace, health, or safety  
29 within the meaning of Article IV of the Constitution and shall go  
30 into immediate effect. The facts constituting the necessity are:

31 In view of the fact that the State of California is experiencing a  
32 fiscal crisis, and in order to improve compliance with state tax  
33 laws, it is necessary that this act take effect immediately.

34 SEC. 11. The provisions of this act shall become operative on  
35 the first day of the first month commencing more than 60 days after  
36 the effective date of this act.